

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

LANIKA MOSLEY,

PLAINTIFF,

V.

CVS PHARMACY, INC.,

DEFENDANT.

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CIVIL ACTION NO.

JURY DEMANDED

DEFENDANT CVS PHARMACY, INC.'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441, Defendant CVS Pharmacy, Inc. (hereinafter referred to as “Defendant” or “CVS”), hereby removes to this Court, the state court action described in Paragraph 1 below. Pursuant to 28 U.S.C. § 1446(a), CVS sets forth the following “short and plain statement of the grounds for removal”:

A. THE REMOVED CASE

1. The removed case is a civil action first filed in the 366TH Judicial District Court, County County, Texas on January 10, 2022, styled *Lanika Mosley vs. CVS Pharmacy, Inc.*, Cause No. 366-00109-2022 (“State Court Action”). The case arises from alleged injuries sustained by Plaintiff, Lanika Mosley (“Mosley”), on or about January 12, 2020 while at the CVS store located at 4201 E. Park Boulevard, Plano, Texas 75074.

2. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings and orders filed in the State Court Action as of the date of this pleading are attached to this Notice and incorporated herein for all purposes.

3. Attached hereto are copies of the following documents:

Exhibit “1”: Index of Matters Being Filed

Exhibit “A”: Citation Served on CVS Pharmacy, Inc.;

Exhibit “B”: Plaintiff’s Original Petition;

Exhibit “C”: Original Answer of CVS Pharmacy, Inc.;

Exhibit “D”: The State Court’s Docket Sheet;

Exhibit “E”: List of Counsel

Exhibit “2”: Civil Cover Sheet

4. CVS will promptly give all parties written notice of the filing of this Notice of Removal and will promptly file a notice of filing this Notice of Removal with the clerk of the 366th Judicial Court of Collin County, Texas where the State Court Action is currently pending.

B. REMOVAL IS TIMELY

5. CVS was served with Plaintiff’s Original Petition (“Petition”) on January 11, 2022. Since the thirtieth day after service of the Petition falls on February 10, 2022 , this Notice of Removal is filed timely pursuant to 28 U.S.C. § 1446(b).

C. VENUE IS PROPER

6. The United States District Court for the Eastern District of Texas is the proper venue for removal of the State Court Action pursuant to 28 U.S.C. § 1441(a) because the 366th Judicial District Court of Collin County, Texas is located within the jurisdiction of the United States District Court for the Eastern District of Texas.

D. DIVERSITY OF CITIZENSHIP EXISTS

7. This is a civil action that falls under the Court’s original jurisdiction pursuant to 28 U.S.C. § 1332 and is one that may be removed to this Court based on diversity of citizenship in accordance with 28 U.S.C. §§ 1441 and 1446.

8. At the time of the filing of this Petition, Plaintiff Lanika Mosley was and is still, to the best of Defendant's knowledge and according to the Petition, a resident of Texas. *See* Plaintiff's Original Petition, ¶ 3. Accordingly, for diversity purposes, Plaintiff is a citizen of Texas. To date, Plaintiff has not identified, served, or joined a Defendant in this case that can defeat diversity jurisdiction.

9. Defendant CVS Pharmacy, Inc., is a foreign corporation, organized and existing under the laws of the State of Rhode Island with a principal place of business at 1 CVS Drive, Woonsocket, Rhode Island. Accordingly, for diversity purposes, Defendant is a citizen of Rhode Island.

10. Thus, this lawsuit is between citizens of different states, and there is complete diversity of citizenship between Plaintiff and CVS Pharmacy, Inc. pursuant to 28 U.S.C. § 1332.

E. THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED

11. It is apparent from the face of the Original Petition that Plaintiff seeks damages in excess of \$75,000. For example, Plaintiff seeks damages for medical expenses and pain and suffering in the past and future from the "serious physical harm to Plaintiff." *See* Plaintiff's Original Petition at ¶¶ 16, 28. Moreover, Plaintiff has pled gross negligence and seeks exemplary damages. *Id.* at ¶¶ 25-27.

12. Based on the aforementioned facts, the State Court Action may be removed to this Court by CVS in accordance with the provisions of 28 U.S.C. § 1441(a) because: (i) this action is a civil action pending within the jurisdiction of the United States District Court for the Eastern District of Texas; (ii) this action is between citizens of different states; and (iii) the amount in controversy exceeds \$75,000, exclusive of interest and costs.

F. JURY DEMAND

13. Defendant demanded a trial by jury in the State Court Action and paid the jury fee to the Clerk of the Court with the filing of Defendant's Original Answer in the State Court Action.

G. CONCLUSION

14. For the reasons stated above, Defendant CVS PHARMACY, INC. requests that Cause Number 366-00109-2022 now pending in the 366th Judicial District Court of Collin County, Texas, be removed to the United States District Court for the Eastern District of Texas, Sherman Division.

Respectfully submitted,

COOPER & SCULLY, P.C.

/s/ John A. Scully

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**ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of February, 2022, a true and correct copy of the foregoing document was served on all counsel of record via the Court's CM/ECF system in accordance with the Federal Rules of Civil Procedure.

/s/ Chad M. Nelson

Chad M. Nelson